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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,330	12/24/2001	Kenzo Nishi	10873.869US01	3231
23552	7590	10/04/2006		EXAMINER
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			COBANOGLU, DILEK B	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/036,330	NISHI ET AL.	
	Examiner	Art Unit	
	Dilek B. Cobanoglu	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 July 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7,9-15,17-21,23-29 and 31-36 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-7,9-15,17-21,23-29 and 31-36 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 05/06/2002, 11/13/2003, 7/28/2005,

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed on 07/05/2006. Claims 1-7, 9-15, 17-21, 23-29 and 31-36 continue pending and claims 8, 16, 22 and 30 are canceled. Claims 1-3, 6, 9-11, 14, 17, 23-25 and 27 have been amended.

Claim Objections

2. The objection of claim 27, for being dependent on another dependent claim 22, have been withdrawn due to the amendment filed on 07/05/2006.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-15, 17-21, 23-29 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dyer et al. (hereinafter Dyer) (U.S. Patent No. 4,828,257) in view of Hickman (U. S. Patent No. 6,193,631 B1).

A. Claim 1 has been amended now to recite a healthcare system comprising:

- i. a healthcare apparatus for obtaining health-related information of a user; and a server (Dyer; col. 5, lines 49-59),
- ii. wherein the healthcare apparatus transmits the obtained health-related information to the server via a computer network.

- iii. the server creates exercise menu information to be a target for the user to do exercise and advice information for healthcare of the user, and transmits the created exercise menu information and advice information to the healthcare apparatus (Dyer.; col. 3, line 57 to col. 4, line3 and col. 6, lines 54-68) via the computer network,
- iv. the advice information is created based on the exercise menu information and the received health-related information (Dyer; col. 3, lines 57-67),
- v. the healthcare apparatus receives an input of user-related information, and transmits the user-related information to the server, and the user-related information contains an upper limit value and a lower limit value of the health-related information of the user, and
- vi. when the health-related information transmitted from the healthcare apparatus exceeds a range from the lower limit value to the upper limit value, the server creates warning information and transmits the warning information to the healthcare apparatus.

Dyer fails to expressly teach the computer network between the healthcare apparatus and server, per se, since it appears that Dyer is more directed to electrical interconnection between the central control unit and the exercise station. However, this feature is well known in the art, as evidenced by Hickman.

In particular, Hickman discloses a computer network between the healthcare apparatus and server (Hickman; col. 2, lines 11-22 and col. 5, lines 41-45).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Hickman with the motivation of the server system computer to communicate with other server computers for the consolidation, storage, processing, and exchange of data (Hickman; col. 2, lines 47-65).

Dyer also fails to expressly teach the healthcare apparatus receives an input of user-related information, and transmits the user-related information to the server, and the user-related information contains an upper limit value and a lower limit value of the health-related information of the user, and when the health-related information transmitted from the healthcare apparatus exceeds a range from the lower limit value to the upper limit value, the server creates warning information and transmits the warning information to the healthcare apparatus, per se, since it appears that Dyer is more directed to automatically updating a user's exercise program based on his performance history and personal demographic

characteristics (Dyer; col. 3, lines 11-21). However, this feature is well known in the art, as evidenced by Hickman.

In particular, Hickman discloses the healthcare apparatus receives an input of user-related information, and transmits the user-related information to the server, and the user-related information contains an upper limit value and a lower limit value of the health-related information of the user, and when the health-related information transmitted from the healthcare apparatus exceeds a range from the lower limit value to the upper limit value, the server creates warning information and transmits the warning information to the healthcare apparatus (Hickman; col. 7, line 36 to col. 8, line 29).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Hickman with the motivation the need of a caution if the user is exercising faster than that suggested the script or if a dangerous physical condition is detected (Hickman; col. 8, line 65 to col. 8, line 1).

B. Claim 2 has been amended now to recite a healthcare system according to claim 1, wherein the healthcare apparatus transmits the health-related information at a regular interval (Dyer et al.; col. 4, lines 18-22).

C. Claim 3 has been amended now to recite a healthcare system according to claim 1, wherein the healthcare apparatus obtains the health-related information

during exercise of the user, and the healthcare apparatus transmits the health-related information whenever obtaining the health-related information (Dyer et al.; col. 4, lines 18-22).

D. Claim 6 has been amended now to recite a healthcare system according to claim 1, wherein the server creates the exercise menu information based on the user-related information (Dyer et al.; col. 3, line 57 to col. 4, line 3).

E. Claim 9 has been amended now to recite a healthcare apparatus for obtaining health-related information of a user and managing the health of the user, comprising:

- i. a receiving part for receiving information from an external apparatus via a computer network; a health-related information obtaining part for obtaining the health-related information of the user; an input part for inputting user-related information; a transmitting part for transmitting the obtained health-related information to the external apparatus (Dyer et al.; col. 4, lines 18-35) via the computer network; and a display part (Dyer et al.; col. 8, lines 53-59 and Fig. 4),
- ii. wherein the user-related information contains an upper limit value and a lower limit value of the health-related information of the user,
- iii. the receiving part receives exercise menu information to be a target for the user to do exercise, and advice information for healthcare of the user created by the external apparatus based on the exercise menu

information and the transmitted health-related information (Dyer et al.; col. 4, lines 18-35),

iv. the display part displays at least the exercise menu information and the advice information (Dyer et al.; col. 8, lines 53-59 and Fig. 4), and

v. the advice information contains warning created in the external apparatus when the heath-related information transmitted to the external apparatus exceeds a range from the lower limit value to the upper limit value.

The obviousness of modifying the teaching of Dyer to include the computer network and warning created in the external apparatus when the heath-related information transmitted to the external apparatus exceeds a range from the lower limit value to the upper limit value. (as taught by Hickman) is as addressed above in the rejection of claim 1 and incorporated herein.

F. Claim 10 has been amended now to recite a healthcare apparatus according to claim 9, wherein the healthcare apparatus transmits the health-related information at a regular interval (Dyer et al.; col. 4, lines 18-22).

G. Claim 11 has been amended now to recite a healthcare apparatus according to claim 9, wherein the health-related information during exercise of the user, and the transmitting part transmits the health-related information whenever obtaining the health-related information (Dyer et al.; col. 4, lines 18-22).

H. Claim 14 has been amended now to recite a healthcare apparatus according to claim 9, wherein the transmitting part transmits the user-related information to the external apparatus, and the exercise menu information is created based on the user-related information (Dyer et al.; col. 3, line 57 to col. 4, line 3).

I. Claim 17 has been amended now to recite a server for receiving health-related information of a user to create advice information, comprising:

i. a receiving part for receiving the health-related information of the user obtained at an external terminal apparatus(Dyer et al.; col. 3, line 57 to col. 4, line 3) and the user-related information via a computer network;

an exercise menu information creating part for creating exercise menu information to be a target for the user to do exercise; an advice information creating part for creating advice information for healthcare of the user; and a transmitting part for transmitting the exercise menu information and the advice information to the terminal apparatus (Dyer et al.; col. 3, line 57 to col. 4, line 3)via a computer network ,

ii. wherein the advice information creating part creates the advice information based on the received health-related information and exercise menu information (Dyer et al.; col. 3, lines 57-67),

iii. the user-related information contains an upper limit value and a lower limit value of the health-related information of the user, and

iv. the advice information creating part creates advice information to be warning in a case where the health-related information transmitted from

the external terminal apparatus exceeds a range from the lower limit value to the upper limit value.

The obviousness of modifying the teaching of Dyer to include the computer network and the advice information creating part creates advice information to be warning in a case where the health-related information transmitted from the external terminal apparatus exceeds a range from the lower limit value to the upper limit value (as taught by Hickman) is as addressed above in the rejection of claim 1 and incorporated herein.

J. Claim 23 has been amended now to recite a healthcare method using a server and a healthcare apparatus connected to the server, comprising the steps of:

- (a) transmitting exercise menu information to be a target for a user to do exercise from the server to the healthcare apparatus (Dyer et al.; col. 3, lines 11-21 and lines 33-56)via a computer network;
- (b) obtaining health-related information of a user by the healthcare apparatus (Dyer et al.; col. 4, lines 18-22);
- (c) transmitting the obtained health-related information from the healthcare apparatus to the server (Dyer et al.; col. 3, line 57 to col. 4, line 1)via a computer network;
- (d) creating warning information based on the health-related information and the exercise menu information by the server and transmitting the

created warning information to he healthcare apparatus (Dyer et al.; col. 4, lines 9-17) via a computer network; and

(e) providing a user with the received warning information by the healthcare apparatus (Dyer et al.; col. 4, lines 9-17 and lines 22-35), wherein the healthcare method includes, before the step (a), the step for the healthcare apparatus to receive an input of user-related information and to transmit the user-related information to the server and the user-related information contains an upper limit value and a lower limit value of the health-related information of the user, and in the step (d), the server creates the warning information when the health-related information transmitted from the healthcare apparatus exceeds a range from the lower limit value to the upper limit value of the health-related information.

The obviousness of modifying the teaching of Dyer to include the computer network, the healthcare apparatus to receive an input of user-related information and to transmit the user-related information to the server and the user-related information contains an upper limit value and a lower limit value of the health-related information of the user and the server creates the warning information when the health-related information transmitted from the healthcare apparatus exceeds a range from the lower limit value to the upper limit value of the health-related information (as

taught by Hickman) is as addressed above in the rejection of claim 1 and incorporated herein.

K. Claim 24 has been amended now to recite a healthcare method according to claim 23, wherein transmission of the health-related information by the healthcare apparatus is conducted at a regular interval (Dyer et al.; col. 4, lines 18-22).

L. Claim 25 has been amended now to recite a healthcare method according to claim 23, wherein the healthcare apparatus obtains the health-related information during exercise of the user, and the healthcare apparatus transmits the health-related information whenever obtaining the health-related information (Dyer et al.; col. 4, lines 18-22).

M. Claim 27 has been amended to correct a typographical error and Applicant does not appear to argue the separate patentability of this claim. As such, claim 27 is rejected for the same reasons given in the previous Office Action (paper number 8), and incorporated herein.

N. Claims 4, 5, 7, 12, 13, 15, 18-21, 26, 28, and 29 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 4, 5, 7, 12, 13, 15, 18-21, 26, 28, and 29 are rejected for the same reasons given in the previous Office Action (paper number 2-9), and incorporated herein.

O. Newly added claims 31, 33 and 35 disclose a healthcare system according to claims 1, 9, and 23 respectively, wherein the healthcare apparatus transmits the

health-related information at selectively adjustable interval. (Dyer; col. 3, line 67 to col. 4, line 1)

Examiner considers that "end of each exercise period" is a selectively adjustable interval, either set by the user or by the system automatically.

P. Newly added claims 32, 34 and 36 disclose a healthcare system according to claims 1, 9, and 23 respectively, wherein the healthcare apparatus transmits the health-related information at fixed intervals. (Dyer; col. 3, line 67 to col. 4, line 1)

Examiner considers that "end of each exercise period" can be a fixed interval, either set by the user or by the system automatically.

Response to Arguments

5. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the structure recited in claim 1 allows the healthcare of a plurality of users to be performed simultaneously using a plurality of healthcare apparatuses with a single server) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3626

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

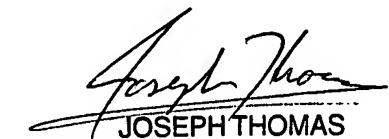
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DBC
Art Unit 3626
09/08/2006


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER